UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN,

Plaintiff,

vs.

RALLY MANUFACTURING INC.,

Defendant.

and related cases.

CASE NO. 08CV60 BTM (CAB)
NO. 08CV70
NO. 08CV71
NO. 08CV135
NO. 08CV136
NO. 08CV 231
NO. 08CV233
NO. 08CV234
NO. 08CV305
NO. 08CV306
NO. 08CV 308
NO. 08CV309
NO. 08CV411

ORDER GRANTING DEFENDANTS' MOTION FOR STAY PENDING PATENT REEXAMINATION

For the reasons stated in the Court's order granting stay in Sorensen v. Black and Decker, 06cv1572, Docket No. 243 and on the record at the February 25, 2008 status conference in Sorensen v. Helen of Troy, 07cv2278, the Court GRANTS without prejudice Defendants' motion for stay. The Court concludes that a reasonable stay is appropriate in this case because the litigation is in its early stages, Plaintiff has not established undue prejudice, and the reexamination will simplify issues for the Court and save expense for the parties. See, e.g., Xerox Corp. v. 3Com Corp., 69 F. Supp. 2d 404, 406 (W.D.N.Y. 1999). However, if it appears that the reexamination will not be effected within a reasonable time, Plaintiff may move to vacate the stay. Defendants are advised to identify and submit any relevant prior art that is not already being considered by the United States Patent Office as soon as possible to facilitate the completion of the reexamination process within a reasonable time period.

Additionally, any party may apply to the Court for an exception to the stay if it has specific, valid reasons to believe that it needs to obtain discovery in order to preserve evidence that will otherwise be unavailable after the stay. Defendant is ordered to file a notice informing the Court of the PTO's decision on the pending application for reexamination within 10 days of receipt of such decision.

All other pending motions in these cases are DENIED as premature. Requests Plaintiff may renew these motions after the stay has been lifted.

IT IS SO ORDERED.

DATED: April 25, 2008

Barry Ted Moskowitz

Honorable Barry Ted Moskowitz
United States District Judge